

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 01-30-04. Dates of service 01-24-03 and 01-29-03 per Rule 133.308(e)(1) were not timely filed and will not be reviewed by the Medical Review Division.

The IRO reviewed office visits, special reports, therapeutic exercises, nerve conduction-no "F" wave, sensory testing-each nerve, "H/F" wave studies and physical performance test rendered from 01-30-03 through 06-13-03 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the **majority** of issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The IRO determined that office visits, special reports, therapeutic exercises, nerve conduction-no "F" wave, sensory testing-each nerve, "H/F" wave studies and physical performance test from 01-30-03 through 06-13-03 **were** medically necessary. The IRO determined that electrical stimulation, ultrasound, massage therapy, joint mobilization and unlisted special services/reports from 01-30-03 through 06-13-03 **were not** medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 20th day of October 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby **ORDERS** the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 01-30-03 through 06-13-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 20th day of October 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

April 15, 2004

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
7551 Metro Center Drive, Suite 100, MS 48
Austin, TX 78744-1609

RE: MDR Tracking #: M5-04-1555-01
 IRO Certificate #: IRO4326

The ____ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ____ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

____ has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ____'s health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to ____ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This 65-year-old male had a motor vehicle accident on _____. The patient was driving and hit another motorist stopped in front of him. He complained of pain at his right arm and low back. The patient's treatment included physical therapy, light duty, home exercise program, imaging, epidural steroid injections, and nerve conduction studies.

Requested Service(s)

Office visit, electrical stimulation, ultrasound, massage therapy, joint mobilization, special reports, therapeutic activities, unlisted special services/reports, nerve conduction-no "F" wave, sensory testing-each nerve, "H/F" wave studies, and physical performance test from 01/30/03 through 06/13/03.

Decision

It is determined that the visits, special reports, therapeutic exercises, nerve conduction-no "F" wave, sensory testing-each nerve, "H/F" wave studies and physical performance test from 01/30/03 through 06/13/03 were medically necessary to treat this patient's condition. However, electrical stimulation, ultrasound, massage therapy, joint mobilization, or unlisted special services/reports from 01/30/03 through 06/13/03 were not medically necessary.

Rationale/Basis for Decision

The patient was injured in a motor vehicle accident while on the job on _____. He was seen for care and several weeks of therapy were performed. He was evaluated and released by this physician. The patient continued to experience on going problems. On 12/05/03, he sought evaluation and treatment by another physician. He started a treatment program with the primary focus on chiropractic care and passive therapy. The patient progressed into active therapy for a while, passive therapies were continued. He was referred and had lumbar epidural steroid injections. Two more designated physicians saw the patient; he was not at Maximum Medical Improvement (MMI). On 03/13/03, the third physician found him to be at MMI with a 12% impairment rating. He was later seen by another physician who felt he had a 10% impingement rating and was in the opinion that he had reached MMI in 2002 since he was not a surgical candidate. During the course of treatment, appropriate diagnostic testing were ordered and performed that confirmed this patient's injuries and the need for continued care.

Standards of care do not include passive therapy several months after the onset of the injury. There is sufficient documentation on each visit to clinically justify the office visits, special reports, therapeutic exercises, nerve conduction-no "F" wave, sensory testing – each nerve, "H/F" wave studies and physical performance from 01/30/03 through 06/13/03. However, there is no appropriate clinical documentation to allow for electrical stimulation, ultrasound, massage therapy, joint mobilization, or unlisted special services/reports from 01/30/03 through 06/13/03. Therefore, it is determined that the visits, special reports, therapeutic exercises, nerve conduction-no "F" wave, sensory testing-each nerve, "H/F" wave studies and physical performance test from 01/30/03 through 06/13/03 were medically necessary to treat this patient's condition. However, electrical stimulation, ultrasound, massage therapy, joint mobilization, or unlisted special services/reports from 01/30/03 through 06/13/03 were not medically necessary.

Sincerely,